

CASE STUDY 9

STATE OWNED ENTERPRISES

SOE Reforms in Angola

Addressing systemic corruption in Angola's SOEs through strong political commitment

Introduction

Corruption scandals related to the SOEs in Angola made headlines at the beginning of 2020 in newspapers across the world.⁴⁷ However, the phenomenon of corruption is not recent. It was particularly intense in the years following the end of the civil war in 2002 as tens of billions of dollars in oil revenue had to be managed by weak institutions and public financial management systems. Vested interests, weak control and oversight, and the absence of checks and balances were a few of the country's many problems. Both petty and grand corruption have long thrived in Angola and given the resource rich nature of the economy, it involved staggering amounts of public money.

This widespread nature of corruption is well documented in numerous governance and anti-corruption assessments by the donor community. Angola fares badly in world rankings: it was ranked 165 out of 180 countries on Transparency International's 2018 Corruption Perceptions Index. The World Bank Governance Indicator for Control of Corruption places Angola at a similar percentile rank as in 2000. It has been estimated that USD28 billion of government spending was unaccounted for between 2002 and 2015 and billions of dollars have been transferred often illicitly from Angola to offshore accounts, which has led to the country being listed in 2016 as a high-risk and non-cooperative jurisdiction on anti-money laundering and combating the financing of terrorism. While generally seen as weak, some anti-corruption laws and institutions have been put in place over the

years, but the system overall suffers from powerful vested interests.⁴⁸

The current political commitment and strong discourse to tackle corruption in the country in general and in the oil sector in particular, coming from the highest political level, represents a unique opportunity to tackle corruption in Angola and introduce credible reforms with a long-term impact. This can be aided by the increased engagement from international institutions with a strong governance agenda and expertise to build effective anti-corruption frameworks.

Corruption in the oil and diamond sector and the role of SOEs

The oil and mining sectors in Angola are considered especially high-risk areas for corruption. Clientelist networks generally govern the way business is conducted in Angola, with many Angolan companies functioning as front organizations for government officials whose integrity and accountability are frequently questioned by observers. Active and passive bribery, illicit enrichment and conflict of interest are criminalized by the Probity Law,⁴⁹ but offenses are rarely prosecuted.⁵⁰

As Africa's second-largest oil producer, Angola has vast petroleum wealth, which is licensed exclusively by its SOE, Sonangol. It has ventures in a swath of other

sectors, including air transport, telecoms, banking and insurance, and real estate, to support its core business. In 2018, its turnover was USD18 billion. By 2015 Sonangol was in a deep crisis. The falling price of oil and longstanding inefficiency were draining the company's revenues. With oil the keystone of the Angolan economy, responsible for a third of its GDP and 90% of its exports, a bankrupt Sonangol would mean economic catastrophe. The government took drastic action. By decree of the then president, José Eduardo dos Santos, a committee to restructure the Angolan oil sector was constituted, and it invited a Maltese company, Wise Intelligence Solutions, to coordinate a group of consultants to advise on reforms. Wise's owner was the president's daughter, Isabel dos Santos. Six months later, Isabel dos Santos would be granted even greater influence over the reforms. A second presidential decree announced her appointment as chair of the SOE, Sonangol, mandated with overseeing its turnaround.⁵¹

Sonangol and Resource-Backed Loans (RBL) in Angola⁵²

According to a recent study,⁵³ Angola received the largest amount of RBLs in sub-Saharan Africa. Between 2000 and 2016, Chinese lenders committed over USD24 billion worth of oil-backed loans and credit lines to Angola, most of which have been disbursed. The national oil company Sonangol has played an important role in RBLs in Angola. In addition to the Chinese RBLs, Sonangol independently borrowed large amounts from Chinese lenders. Furthermore, USD10 billion from the USD15 billion oil-backed credit line that the Angolan government signed with China Development Bank in 2015 was subsequently lent to Sonangol.

The financial flows between Sonangol and Angola's government budget were not transparent. In 2012, for example, the International Monetary Fund (IMF) uncovered USD32 billion excess of revenues over expenditures in Angola's state budget from 2007 to 2010, which was the result of Sonangol using government oil revenues to finance "quasi-fiscal operations" not recorded in official budget accounts.⁵⁴ In 2016, Angolan oil-backed loans had reached USD25 billion, which was more than half of the government's total debt. The country requested an IMF bailout in

2018, in which it committed to stop taking any new RBLs (collateralized loans) and limit how much it draws down on existing RBLs.

Researchers⁵⁵ showed that in total, two-thirds of all RBLs went to countries with poor governance standards. Countries with limited transparency and accountability of their resource sectors used those assets to secure RBLs. The countries with by far the largest amounts of RBLs in their respective region—Venezuela in Latin America (USD59 billion) and Angola in sub-Saharan Africa (USD24 billion)—both have poor resource governance scores. Data⁵⁶ shows that in roughly 40 percent of cases (21 cases), the borrowing entity was an SOE operating in the oil or mining sector. Across one dataset, the following national oil companies (NOCs) were recipients of most RBLs: Petrobras (Brazil), PetroEcuador (Ecuador), Petróleos de Venezuela (Venezuela), Sonangol (Angola), Société des Hydrocarbures du Tchad (Chad), and Société Nationale des Pétroles du Congo (Congo).

Crackdown on corruption and efforts to increase transparency in the Angolan SOE sector

In September 2017, President João Lourenço took office and initiated a crackdown on corruption. After taking office, President Lourenço started delivering on his pledges by initiating a number of economic reforms aimed at tackling corruption, graft and patronage as well as breaking up a number of artificial monopolies in the economy (most notably in the cement and telecoms sectors). At the same time, he made numerous high-level appointments in key positions and initiated investigations against a number of high-level officials linked to former President Dos Santos and his family, some of whom were put under preventive detention.

The former President's daughter, Isabel dos Santos, had been the president of the board of directors of the state-owned oil company Sonangol, until she was removed, as part of the anti-corruption and investigative efforts initiated under the new President. The son of the former President, Jose Filomeno dos Santos, was also removed as chairman of the sovereign wealth fund (Fundo Soberano de Angola, FSDEA) and subsequently charged in a fraud case concerning misappropriation of

USD500 million of public funds. His business partner, Jean-Claude Bastos de Morais, was also arrested in relation to the misappropriation case alongside the former governor of the National Bank of Angola, Valter Filipe. These are just a few of several high-level cases that have received significant attention both within and outside Angola. Norberto Garcia, another high-ranking member of the MPLA party and former director of the Technical Unit for Private Investment (UTIP) was charged with fraud, money laundering and document falsification. The former transport minister Augusto Tomas was also arrested on charges of embezzlement and corruption. Another central component of the anti-corruption policy under the current administration has been the intent to recover stolen assets first by creating a legal framework for voluntary repatriation of resources under amnesty and subsequently through coercive repatriation and confiscation of assets in lieu of stolen assets.⁵⁷

Reforms in public procurement and the income and asset declaration system

Contracting of goods and services has been deeply affected by corruption and improving public procurement constituted a key element of fighting corruption in Angola. The public procurement law was updated to include lowering the threshold for contracts that are required to be subject to public tender, the creation of a national procurement portal and a list of companies certified to undertake construction work for the government (Presidential Decree 198/16 of September 26). The thresholds for authorization of expenditure were updated in 2018 to adjust for inflation, although the thresholds for requirements for the type of procurement were not altered (Presidential Decree 281/28 of November 28 and Rectification 26/18 of December 31). The law also included a chapter on ethical behavior in the planning and execution of public contracts, including requirements for impartiality and avoiding conflicts of interest, fraud and corruption, legal compliance and confidentiality. In the past, compliance and enforcement of the legal anti-corruption framework had been a bigger problem than the legal framework itself.

Reforms to income and asset declaration were

introduced to reinforce and complement the reforms to public procurement. In Angola, income and asset declaration is regulated principally by the Law on Public Probity (Law 3/10 from 2010). Article 18 established that public officials must not, in the exercise of their functions, directly or through an intermediary, benefit from an offer by any natural or legal entity, under Angolan or foreign law. Article 27 stipulates the obligation of some officials to declare their income and assets when taking office using a specific form. The types of officials included are those elected or appointed to posts, judicial and public prosecutors, senior officials of central and local government, public institutes, state-owned enterprises, managers of public assets assigned to the armed forces, heads of local government.

In late 2018, regulations were issued for the declaration of income and assets, declaration of interests, and declaration of impartiality and confidentiality in public procurement (Presidential Decree 319/18 of December 31). The regulations were issued alongside several tools, including the ethical code of conduct in public procurement, a guide for denouncing indications of corruption in public procurement, and a practical guide for preventing and managing risks of corruption in public contracts (anti-corruption guide). Combined, the regulation and tools have been referred to as the strategy for the moralization of public procurement.

The regulations extend the requirement for income and asset declarations (IAD) specifically related to public procurement to include both senior public officials and technical staff preparing bidding documents, members of the procurement committee and contract managers. Senior officials in the public sector, including SOEs, and members of the procurement committee are also required to declare any interests in companies, business groups, consortiums or other business interests that could result in a conflict of interest (Article 2). The regulations establish that the IAD of public officials must be submitted to the highest level of authority within the procuring entity and handled in line with law 3/10 on public probity. Declarations of interest, however, must be submitted to the Inspectorate-General of the Public Administration (IGEIA), which is entitled to use them as they see fit to deliver their mandate (Article 7 and 8). This represents a shift in the IAD framework, which has to date been a closed system (IADs are submitted in closed envelopes and only opened by the prosecutor's office as part of an investigation) to a semi-open system for matters concerning public procurement.



More transparent privatization efforts involving the SOEs

Angolan SOEs have been used in the past to extend favors and lucrative contracts to party loyalists. The early 2020 ‘Luanda papers’ leaks⁵⁸ by the international consortium of investigative journalists showed the extent of the misuse of state assets for personal gain by the Angolan elite—and in particular Isabel dos Santos and her entourage. Ongoing SOE reforms in Angola include efforts to address flaws in past SOE governance and privatization processes and increase transparency and predictability, thus leveling the playing field. The Privatization Law was published in the spring of 2019 and a privatization program was presented in September. The large and ambitious privatization program is being implemented over four years. A number of minor SOEs

and state assets have been sold through international competitive bids. Sonangol, the national oil company, is implementing its own “Regeneration Program,” which includes divesting non-core businesses and reducing stakes in oil blocks. The company is expected to start divesting in early 2020.

To improve transparency and accountability of SOEs and reduce opportunities for corruption, the authorities began publishing reports on its SOE portfolio,⁵⁹ including audited annual reports of the 15 largest SOEs, at the end of 2019.⁶⁰ Ongoing structural reforms aim to reduce the large State footprint in the economy, reduce fiscal risks, and foster private sector-led development. The authorities’ home-grown reforms—including Sonangol’s “Regeneration Program” and the privatization of several SOEs—are expected to reduce State presence in the economy, curb fiscal risks, improve governance, mitigate price distortions, and increase economic efficiency. In turn, these efforts

should pave the way for private sector-led development and economic diversification.⁶¹ Under the IMF program, important fiscal risks in the economy are expected to be mitigated by the proposed restructuring of the largest SOE, Sonangol, the improved transparency of all SOE accounts and the timely implementation of the SOE privatization program, whose proceeds could be used to reduce mounting debt.

Institutional changes to increase transparency and efficiency in the oil SOE and beyond

The authorities continue to make progress on the privatization program and reform of SOEs, yet challenges remain. The public offering of the first set of SOEs/state assets took place in September 2019. Moreover, the authorities plan to continue with the disposal of non-core assets of Sonangol and to reduce some of its stakes in oil blocks. As part of an effort to streamline the operations of Sonangol, the authorities established the National Oil and Gas Agency in February 2019, which has taken over the function of concessionaire in the oil sector. The first phase of this change was completed in June 2019 and involved the new agency absorbing human resources and assets from Sonangol.⁶²

There have been many positive indications of the Government of Angola's commitment to strengthening governance and fighting corruption. In January 2019, the National Assembly approved a new Penal Code, which includes harsher punishment for both active and passive corruption. The Attorney General's Office, which is in the process of implementing the anti-corruption strategy published in December 2018, has stepped up its investigations and two members of Parliament have been indicted on several corruption charges. The creation of a specialized anti-corruption unit in 2018, under the Executive branch, is expected to further support the fight against corruption. To help enforce laws on SOE transparency and accountability, the 15 largest SOEs (by assets) will have to publish their audited annual reports on the website of the SOE oversight institute (the Institute of Assets Management and State Holdings [IGAPE]). Starting in 2019, the government enforced the publication of these companies' annual reports on IGAPE's webpage, as

required by the law. The government also committed to increase the share of public contracts awarded through open tender (*concurso público*) to at least 50 percent by end-2020.⁶³

Conclusion

Fighting corruption in SOEs remains a huge challenge in Angola, and the early policy actions need to be carefully watched for sustainability and impact. The few corporate governance codes that were passed over the years had limited impact and action was needed beyond the regulatory level. With the arrival of the new government in mid-2017, a concerted effort has been made to address systemic corruption by targeting both enforcement and prevention. The SOEs were front and central in that effort. Some results can already be seen, as evidenced by reports of the donor community, but progress is slow. A new and reinforced SOE unit in the Ministry of Finance is now collecting data and is preparing regular monitoring reports. Most SOE board of directors have been replaced. Many state assets, which were 'privatized' (at low or zero costs) in the past have been taken back by the state and are now being prepared for a new and transparent privatization process. Corporate governance in the state oil company Sonangol is being strengthened to help the SOE become an efficient company rather than a parallel public sector arm of the authorities, and the state's concessionaire responsibilities have been transferred to a separate institution, which will somewhat reduce the opportunities for using it as an extended arm of the executive. In addition, the SOE has been asked to sell most of the 150+ subsidiaries. The same concerted efforts are now targeting the diamond holding company ENDIAMA. On the other hand, there have been setbacks: privatization is proceeding slower than expected, lending practices of state-owned banks have raised new concerns, and the transparency of Sonangol remains a work-in-progress. While the eventual impact on corruption of Angola's reforms remains to be seen, the country's vigorous approach to tackle corruption in the SOE sector is commendable and can serve as an inspiration to practitioners and policy makers in other countries that are facing similar challenges.

Notes

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33. See the Hidroituango project for example. The Hidroituango dam is one of South America's largest infrastructure projects, a colossus of engineering intended to furnish nearly a fifth of Colombia's energy needs. In 2018 the massive structure nearly collapsed, sparking a national emergency that forced the evacuation of tens of thousands of people. EPM, and some of its managers, are currently under criminal investigation for alleged corruption and environmental damage in its development of the dam. See: *Above Ground (2019). EPM's disastrous dam: How Canada financed a high-risk energy venture gone awry*. <https://aboveground.ngo/edc/epms-disastrous-dam/>.
34. EPM's net worth is reported annually to all citizens in a public event that is broadcasted on local television with live questions from journalists, together with other community engagement and educational programs.
35. Sohail, M. and Cavill, S., 2006.
36. Users can pay public utilities in cash or by debit card, topping up prepaid energy cards, generating payment coupons, obtaining certificates of prepaid services, among others. More than 311,000 transactions were processed during 2018. The EPM mobile app continues gaining strength— in 2018, it reached 26,500 active users and customers, 65% more than the previous year. In addition, during 2018, more than 75,000 customers and users received their bill only via e-mail, and about 320,000 coupons were paid electronically, that is,

- 16.25% of the total coupons collected in the year.
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 46. See BM&FBOVESPA’s SOEs Governance Program: available at www.bmfbovespa.com.br; IBGC’s Guidelines for SOEs, available at www.ibgc.org.br, Publicações/Cadernos de Governança; Article on the governance of SOEs written by Ana Novaes, CFA, member of CFASB’s Advocacy Committee: <http://www.ibgc.org.br/inter.php?id=19628>.
 47. 2020 is off to a rough start for “Africa’s richest woman,” Isabel dos Santos, the daughter of former Angolan President José Eduardo dos Santos, who led his country for 38 years until being succeeded in 2017 by current President João Lourenço. Ms. Dos Santos is involved in the Luanda Leaks, a series of investigative reports developed by the International Consortium of Investigative Journalists and informed by a voluminous amount of documentation that a hacker shared on the Protect Whistleblowers platform in Africa. The reports detail how Ms. Dos Santos used access to the state’s resources for private gain, including by transferring funds from state-owned enterprises to offshore private companies that she and her allies controlled. Angolan authorities have frozen her bank accounts, and the Angolan attorney general announced that she had been indicted for money laundering, mismanagement, and other economic crimes, largely committed during her tenure as head of the state-owned oil company Sonangol from June 2016 to November 2017. Gavin, Michelle (2020). *Learning What We Always Knew: Corruption in Angola*. <https://www.cfr.org/blog/learning-what-we-always-knew-corruption-angola>.
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